APPENDIX A

CALIFORNIA
RULES OF COURT
RULES 15, 27, 28

RULES OF PRACTICE AND PROCEDURE ADOPTED BY THE JUDICIAL COUNCIL AND THE SUPREME COURT

Rule 15. Form of briefs

(a) [Headings, references, index and tables] Each point in a brief shall appear separately under an appropriate heading, with subheadings if desired. Such headings need not be technical "assignments of errors" but should be concise headings which are generally descriptive of the subject matter covered. The statement of any matter in the record shall be supported by appropriate reference to the record. Every brief shall be prefaced by a topical index of its contents and a table of authorities, separately listing cases, statutes, court rules, constitutional provisions, and other authorities.

(b) [Printed brief] Except as provided in this rule, all briefs in civil cases shall be printed. Printed briefs shall comply with the following specifications:

(1) They shall be on opaque, unglazed white paper, 8½ x 11 inches in size, and bound in book or pamphlet form with a suitable cover.

(2) Except for indented quotations and footnotes, the type shall not be smaller than 11-point open fact type with leaded lines. Indented quotations may be printed in unleaded lines, and footnotes may be printed in not smaller than 8-point type and unleaded lines. All headings shall be printed in a type distinguishable from that used in the body.

(3) There shall be a margin of at least one inch on the top, bottom and each side of the type page.

(4) The cover shall contain the title of the case, the name of the trial judge and county, the designation of the

brief, and the name, address and telephone number of the attorney filing the brief.

As amended, eff. Jan. 1, 1951; Jan. 1, 1959; Nov. 11, 1966; July 1, 1968; July 1, 1974; July 1, 1980.

(c) [Briefs produced by other process of duplication] A brief may be produced by other process of duplication as defined in rule 40(l) when it consists of not more than 50 pages, excluding tables and index. An opinion of the Court of Appeal, when annexed to a petition for hearing, shall not be included in ascertaining the total number of pages of the petition. All such briefs shall conform to subdivision (d) of this rule, except that both sides of the paper may be used, with each side numbered as a separate page. When both sides of the paper are used the margin next to the binding shall be at least 1¼ inches and the margin opposite the binding at least one-half inch, and the paper shall be at least 20-pound weight. The type face used in briefs produced by other process of duplication shall not be smaller than that permitted in printed briefs. The clerk shall refuse to file and copies which are not legible. Briefs produced by other duplication process which exceed the limit specified herein, may be filed only when specially permitted by the Chief Justice or Presiding Justice.

Added, eff. July 1, 1974.

(d) [Typewritten brief] Typewritten briefs may be filed only when specially permitted by the Chief Justice or Presiding Justice. All such briefs shall be prepared as provided in subdivision (b) of rule 9, except that the lines on the pages may be unnumbered. Headings shall be either capitalized or underscored or both, and all quotations shall be indented. The briefs shall be bound in appropriate manuscript covers, which shall contain the same matters as the cover of a printed brief; if stapled, the bound edge and the staples shall be covered with tape.

Formerly subd. (c). As amended, eff. Jan. 1, 1959; Jan. 1, 1961; Jan. 1, 1968; July 1, 1971; renumbered subd. (d) and amended, eff. July 1, 1974; as amended, eff. July 1, 1980.

Rule 27. **Rehearing in court rendering decision**

(a) [Power to grant rehearing] The Supreme Court or a Court of Appeal may grant a rehearing after its own decision in any cause except the denial by a Court of Appeal of a petition for a writ within its original jurisdiction without issuance of an alternative writ or order to show cause or the denial of a transfer to a Court of Appeal after certification in a case within the original jurisdiction of a municipal or justice court. A rehearing may be granted on petition, as provided in subdivision (b) of this rule, or on the court's own motion, prior to but not after the time the decision becomes final therein.

As amended, eff. Nov. 11, 1966; Jan. 1, 1957; Jan. 2, 1962; Nov. 11, 1966.

(c) [Time for filing answer] An answer may be served and filed within 23 days after the filing of the decision.

As amended, eff. Jan. 1, 1957.

(d) [Form of petition and answer] Insofar as practicable, the petition and answer shall conform to the provisions of rule 15.

(e) [Determination of petition] An order of the Supreme Court granting a rehearing shall be signed by at least four judges assenting thereto, and filed with the clerk. If no order is made before the decision becomes final as provided in subdivision (a) of rule 24, the petition shall be deemed denied, and the clerk shall enter a notation in the register to that effect.

As amended, eff. Jan. 1, 1961; Nov. 11, 1966.

Rule 28. **Hearing in Supreme Court**[1]

(a) [Time within which court may grant hearing] Within 30 days after a decision of a Court of Appeal becomes final as to that court, the Supreme Court, on its own motion, or on petition as provided in subdivision

(b), may order the cause transferred to itself for hearing and decision, and withing the original 30-day period or any extension thereof the Supreme court may for good cause extend the time for one or more additional periods not to exceed a total of an additional 60 days.

As amended, eff. Jan. 1, 1957; Jan. 1, 1959; Jan. 1, 1961; Jan. 2, 1962; Nov. 11, 1966; Jan. 1, 1968.

(b) [Time for filing petition] A party seeking a hearing must serve and file a petition therefor within 10 days after the decision of the Court of Appeal becomes final as to that court, except that a petition may not be filed after denial of a transfer to a Court of Appeal after certification in a case within the original jurisdiction of a municipal or justice court. Proof shall be made of the delivery or mailing of one copy of the petition to the clerk of the Court of Appeal which rendered the decision. When such copy is delivered to the clerk of the Court of Appeal, he shall forthwith transmit to the clerk of the Supreme Court the original record, briefs, and all original papers and exhibits on file in the cause. If the petition is denied, the clerk of the Supreme Court shall return them to the clerk of the proper Court of Appeal. If the petition is granted, they shall be retained and properly numbered by the clerk of the Supreme Court.

As amended, eff. Jan. 1, 1957; Jan. 1, 1959; Jan. 2, 1962; Nov. 11, 1966; Jan. 1, 1972.

(c) [Time for filing answer] An answer may be served and filed within 20 days after the decision becomes final as to the Court of Appeal.

As amended, eff. Jan. 1, 1957; Jan. 1, 1959; Nov. 11, 1966.

(d) [Form of petition and answer]

(1) Except as provided herein, the petition and answer shall, insofar as practicable, conform to the provisions of rule 15.

(2) Each copy of the petition shall contain or be accompanied by a copy of the opinion of the Court of Appeal, showing the date of its filing.

(3) The petition shall be a single document including a brief in support of the request for hearing. All contentions in support of the petition shall be included therein, including all legal authorities and argument. If a party files an answer to the petition, it shall be a single document which includes all of his contentions in opposition to the petition. No authorities or argument may be incorporated by reference from another document into the petition, or into the answer, except that the petition or answer may incorporate by reference specified portions of a petition for hearing or answer filed in the Supreme Court by another party in the same case, or filed in the Supreme Court in a connected case wherein a petition for hearing is also pending. No discussion of authorities or argument, however denominated, may be annexed to or filed with the petition or answer, except where such annexed material is page-numbered consecutively with the body of the petition or answer and the total length, including the annexed material, does not exceed the limit established in paragraph (4).

(4) A petition or answer shall not exceed 35 pages if printed or 50 pages if typewritten or produced by other process of duplication, exclusive of the Court of Appeal opinion, index of contents and table of authorities, and any other indices. There shall be no exhibits or appendices, however denominated, annexed thereto or filed therewith other than the opinion of the Court of Appeal and any annexed material permitted by paragraph (3), except that, if it is of unusual significance, an evidentiary exhibit or order of a lower court may be annexed if it does not exceed 10 pages. In all other instances, reference to evidentiary matters and lower court orders shall be by appropriate

reference to the record, if they cannot be included in the body of the petition or answer without exceeding the length limitations previously stated. The Chief Justice may permit petitions or answers of greater length, or the inclusion of more annexed material, upon written application.

As amended, eff. Nov. 11, 1966; July 1, 1975.

(e) **[Determination of petition]** A hearing in the Supreme Court, after decision in the Court of Appeal, may be granted by an order, signed by at least four judges assenting thereto, and filed with the clerk. The denial of a hearing may be evidenced by an order signed by the Chief Justice and filed with the clerk. If no order is made within the time specified in subdivision (a) of this rule, the petition for hearing shall be deemed denied and the clerk shall enter a notation in the register to that effect.

As amended, eff. Nov. 11, 1966.

(f) **[Oral argument]** When a hearing is granted, the cause shall be placed on the calendar for oral argument, unless oral argument is waived or unless the Court transfers the cause to a Court of Appeal.

As amended eff. July 1, 1975; Jan. 1, 1976; Jan. 1, 1980.

APPENDIX B

SUPREME COURT CALENDAR
SPECIAL SAN FRANCISCO SESSION
STATE BUILDING
AUGUST 3, 4, and 5, 1981

The following cases are placed upon a special calendar of the Supreme Court for hearing at its courtroom in the State Building, San Francisco, California, on August 3, 4 and 5, 1981:

MONDAY, AUGUST 3, 1981 - 9:00 A.M.

S.F.	24207	American Civil Liberties Union Foundation of Northern California v. Deukmejian
L.A.	31280	Estate of Black
L.A.	31387	Societa per Azioni de Navigazione Italia v. City of Los Angeles

1:30 P.M.

Crim.	21692	People v. Wright
Crim.	21542	People v. Chavers
L.A.	31162	Maxwell v. Superior Court, County of Los Angeles

TUESDAY, AUGUST 4, 1981 - 9:00 A.M.

S.F.	24279	Samson v. Transamerica Insurance Company
S.F.	24266	Peery v. Superior Court, County of Santa Clara
S.F.	24095	DeLancie v. Superior Court, County of San Mateo

1:30 P.M.

Crim.	21352	People v. Ramos
(Crim.	20943	(People v. Hogan
(Crim.	21582	(Hogan on Habeas Corpus
Crim.	21945	People v. Mirmirani

WEDNESDAY, AUGUST 5, 1981 - 9:00 A.M.

S.F.	24183	People v. Superior Court, County of San Mateo (Valdez)
L.A.	31389	Katz v. Workers' Compensation Appeals Board
L.A.	31384	Hustedt v. Workers' Compensation Appeals Board

1:30 P.M.

Crim.	20705	People v. Stankewitz
Crim.	21136	People v. Haskett
S.F.	24076	Bailey v. Loggins
L.A.	31199	Marina Point, Ltd. v. Wolfson

Bird

Chief Justice

If exhibits are to be transmitted to this court counsel must comply with Rule 10(d), California Rules of Court.

SUPREME COURT CALENDAR

1:30 PM August 5, 1981

TIME

COURTROOM, STATE BUILDING, SAN FRANCISCO

L. A. 31199

MARINA POINT,
Pltf-Resp.

vs.

WOLFSON, ET AL.,
Fdts-Applts.

For Applts:
Eugene C, Gratz 30 Min.

For Resp:
Richard F. Hamlin 30 Min.

The above-entitled case has been set on the Supreme Court Calendar as indicated above.

As Councel have advised, the order in which counsel will argue and the time allotted to each is as indicated above. *If argument is to be divided differently, please immediately so advise this office.*

Sincerely,

LAURENCE P. GILL
Clerk of the Supreme Court

APPENDIX C

LAW OFFICES
GRATZ AND WOLFSON

STEPHEN A. WOLFSON
EUGENE C. GRATZ*
*ALSO MEMBER N.Y. BAR

SUITE 1232
1901 AVENUE OF THE STARS
LOS ANGELES, CALIFORNIA 90067

(213) 277-1232
(213) 879-1232

June 23, 1981

Honorable Rose E. Bird
Chief Justice of California
California Supreme Court
4050 State Building
350 McAllister Street
San Francisco, CA 94102

Re: Marina Point, Ltd. v. Wolfson
California Supreme Court, Case No. LA 31199

Honorable Madame:

The above-entitled cause has been set for oral argument on August 5, 1981 at 1:30 p.m.

Information disseminated to the public indicates that the Honorable Otto Kaus has been officially appointed to the Supreme Court of California by Governor Brown, and that his confirmation is anticipated prior to the August term of the Court.

Section 170b of the Code of Civil Procedure provides "No Justice or Judge before whom a cause or question may have been tried or heard, shall sit or act, in an appellate tribunal, on the trial or hearing of such cause or question." Justice Kaus was a member of the panel of Division 5 of the Court of Appeal of the Second Appellate District before which the above-entitled cause was heard,

and participated in the judgment of that Court. It would appear, therefore, that he is disqualified as a matter of law from participating in the determination of the cause by the Supreme Court.

I bring this matter to your attention so that there will be an opportunity for the appointment of a justice pro tem to act in the matter should the Court intend that it be heard by a full panel of seven justices.

Very truly yours,

GRATZ & WOLFSON

By

EUGENE C. GRATZ

ECG:kd

cc: Richard F. Hamlin, Esq.
Amici Curiae

PROOF OF SERVICE BY MAIL

State of California

ss.

County of Los Angeles

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen (18) years and not a party to the within action or proceeding; that my business address is 3340 Ocean Park Boulevard, Suite 3005, Santa Monica, California 90405: that on September 7, 1982, I served the within *Brief in Opposition to Petition for Writ of Certiorari* in said action or proceeding by depositing true copies thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Monica, California, addressed as follows:

Clerk, U.S. Supreme Court
One First Street, N.W.
Washington, D.C. 20543
(Hand delivered; forty copies)

California Supreme Court
4250 State Bldg., 455 Golden Gate Ave.
San Francisco, California 94102

Hon. Judge Harold I. Cherness
Culver Municipal Court
4130 Overland Ave.
Culver City, California 90230

Richard F. Hamlin
4519 Admiralty Way
Suite 208
Marina del Rey, California 90291

Clerk, California Court of Appeal
Second Appellate District
3580 Wilshire Boulevard
Third Floor
Los Angeles, California 90010

Clerk of the Los Angeles Superior Court, Appellate Dept.
111 North Hill Street
Los Angeles, California 90012

Solicitor General
Department of Justice
Washington, D.C. 20530
(3 copies)

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 7, 1982 at Santa Monica, California.

ROBIN J. McCOLGAN
(Original signed)